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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,397	09/27/2001	Toshiya Takahashi	212643US2RD	9041

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EXAMINER	
THOMPSON, JAMES A	

ART UNIT	PAPER NUMBER
2625	

NOTIFICATION DATE	DELIVERY MODE
05/17/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/963,397	<b>Applicant(s)</b> TAKAHASHI ET AL.	
	<b>Examiner</b> James A. Thompson	<b>Art Unit</b> 2625	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 25 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

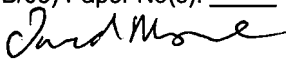
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

  
**DAVID MOORE**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**

James A. Thompson  
 Examiner  
 Technology Division 2625
 

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 25 April 2007 have been fully considered but they are not persuasive. As set forth in the previous office action, mailed 25 January 2007, Steele (USPN 5,884,056) teaches that the scene-changing still pictures of a video are determined and transmitted. Hori (EP 1 024 444 A2) teaches the transmission of non-scene-changing still pictures along with the scene-changing still pictures. Now, given the system of Steele which desires to extract and transmit the scene-changing still pictures and the secondary reference Hori which teaches that one would also transmit the non-scene-changing still pictures, what order would the transmission take? In both Steele and Hori, the scene-changing still pictures are considered more important for transmission than the non-scene-changing still pictures. In Steele, it is the scene-changing still pictures that are transmitted and are thus more important. Furthermore, in Steele a user can specifically select, *after* the scene-changing still pictures have been transmitted, non-scene-changing still pictures between the intervals of scene-changing still pictures [column 9, lines 39-45 of Steele], and the process can be iterated repeatedly to narrow down the interval [column 9, lines 57-59 of Steele] (thus providing greater information to the user, along with a *non-temporal* transmission sequence). The non-scene-changing still pictures are simply not sent *along with* said scene-changing still pictures. In Hori, it is the non-scene-changing still pictures which are decimated and are thus considered less important than the scene-changing still pictures, *and* are sent along with the scene-changing still pictures. Thus, *by combination* with Hori, and in view of the fact that the scene-changing still pictures are considered more important in *both* Steele and Hori, one of ordinary skill in the art at the time of the invention would clearly have modified Steele such that the transmission of the scene-changing still pictures would occur before the transmission of the non-scene-changing still pictures, with the non-scene-changing still pictures being sent along with the scene-changing still pictures. The motivation for doing so would have been to provide the user with additional data regarding a particular scene or scenes within the video the user is considering downloading, thus allowing the user to better determine if the video is worth downloading. This motivation would not only have been well within the grasp of one of ordinary skill in the art at the time of the invention, but is also consistent with the purpose of the system of Steele [see, *e.g.*, Abstract of Steele]. The motivation/suggestion to combine references does not have to come directly from a citation in the references themselves, but can also come from the nature of the problem to be solved, and the knowledge of persons of ordinary skill in the art [see MPEP §2143.01 (I)]. Providing greater information to a user is not some novel idea that comes solely from

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Applicant's disclosure, but is a rather commonplace idea in the art. In fact, in Steele, after the scene-changing still pictures have been transmitted, non-scene-changing still pictures can be selected and sent, thus providing the user with more information about the video. Therefore, both the combination of Steele and Hori is proper and the two references have not at all been brought together by any alleged improper hindsight reconstruction.

Now, Examiner has admitted in said previous office action that Steele in view of Hori does not *expressly* teach the very particular detail of the recited transmission sequence that requires that one of the non-scene-changing still pictures positioned in a middle of a largest interval between scene-changing still pictures included in the picture stream is first transmitted after the scene-changing still pictures are transmitted. However, given the teachings of Steele and Hori as combined already, this would have been an obvious engineering design choice. Steele already teaches that non-scene-changing still pictures are selected in the middle of the interval between scene-changing still pictures [column 9, lines 39-45 of Steele], and the process can be iterated repeatedly to narrow down the interval [column 9, lines 57-59 of Steele]. So, the only difference between the recited claim and the *express* teachings of Steele in view of Hori is *which* interval between scene-changing still pictures is selected first. Selecting the interval between the two scene-changing still pictures which have the largest interval, which would result in a non-scene-changing still picture positioned in the middle of the largest interval between scene-changing still pictures, would be a natural place to began narrowing down the interval between scene-changing still pictures.

So, in brief, the *only* difference between the recited claim and the *express* teachings of Steele in view of Hori is the selected interval. Given that Steele already teaches that narrowing down the interval between scene-changing still pictures is desirable, it would have been an obvious engineering design choice to first select the largest interval between two scene-changing still pictures.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Thompson whose telephone number is 571-272-7441. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James A. Thompson  
Examiner  
Technology Division 2625

JAT  
09 May 2007